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CURRENT TOPICS

Hilary Law Sittings

ONCE again a drop in some litigation figures must be announced at the opening of a new term. Most of the figures, as usual, compare unfavourably with those of last year's Hilary term, which in its turn, compared unfavourably with the previous year. In the King's Bench Division there are 123 cases in the long non-jury list, as compared with 141 last year, and 171 short non-jury actions as against 197 last year. There are three cases in the Commercial List (seven last year) and six short causes (five last year). In the Chancery Division the total number of causes and matters is eighty-five, as against sixty-four last year. There are twenty-eight witness actions (twenty-nine last year) and thirty-eight non-witness actions (twenty-two last year). The remaining twenty-one are retained and assigned matters. Mr. Justice VAISEY will take the forty-four company matters. The total number of divorces set down for hearing is 2,992, of which 101 are part heard, 2,266 are undefended and 625 are defended. Last year the total was 3,396, of which 1,230 were defended and 2,166 undefended. The total number of appeals to the Court of Appeal this Hilary Term is 106 (132 last year). Final appeals number 104 of which forty-nine are from the King's Bench Division (sixty-eight last year), two are from the Chancery Division (eight last year), ten in the Probate and Divorce (four last year) and one in Admiralty. There are forty-one appeals from county courts (forty-nine last year) including five workmen's compensation cases, and one from the County Palatine Chancery Court of Lancaster. The total in the Divisional Court is 114 (139 last year), fifty-two of these being in the Revenue Paper (fifty-one last year) and five in the Special Paper (five last year). In the Divisional Court list itself there are forty-five appeals. There are also seven under the Housing Acts, 1925 to 1936, three under the Pensions Appeal Tribunals Act, 1943, and one each under the National Health Insurance Act, 1936, and the Public Works Facilities Act, 1930.

International Bar Association

IN his speech at the recent jubilee luncheon of the Society of Comparative Legislation (88 SOL. 436), LORD MACMILLAN said that the greatest service which the society could do would be to bring about more unification of law. He compared the world's present condition to that of Babel, and said unification would bring greater understanding and friendliness, and would remove obstacles to world-wide trade caused by varying systems of law. There seems to be some similar idea behind the reference, in the annual statement of the General Council of the Bar, to a letter received from the legal adviser to the British Embassy, Washington, saying that the chairman of the American Bar Association's special committee on the formation of an international bar association wished to know whether the Bar Council would be willing actively to participate in an international bar association of a suitable character, and whether the council would prefer a revival of the Union Internationale des Avocats or to see the formation of some new international bar association, in the creation of which the American Bar Association appeared willing to co-operate. The council replied that the General Council of the Bar of England would be glad to co-operate with the American Bar Association in the formation of a new international bar association of a suitable character by those freedom-loving nations whose ideas as to the independence of the Bar accorded with those of the English Bar. Distances between the continents have now been annihilated by developments in air transport, and if the battle flag is ever to be furled "in the parliament of man and federation of the world," obstacles both of language and legal forms will have to be overcome. The ultimate goal may be distant, but all great things have small beginnings, and those beginnings can be made now.

The High Court: Old and New

IN his broadcast talk on 6th January, on "Westminster Hall: its Pageants and its Tragedies," Sir HENRY BADELEY, K.C.B., Clerk of the Parliaments, referred to the days of the old Westminster Hall, when the judges of King's Bench, Common Pleas, Exchequer and Chancery sat there dispensing justice side by side with the market stalls where "sweet seamstress vends amind the courts her wares." The courts were roofless enclosures built out from the walls of the hall, each holding about a dozen people. Counsel addressed the court from behind a low rail separating the enclosure from the open hall. Thus one of the greatest legal systems in history was built up in the hubbub of the market. In 1822 a new building for the courts was erected by Sir John Soane on land adjoining the Hall, where now stands the statue of Oliver Cromwell, facing Westminster Abbey. The present courts were completed in 1881, to the design of Mr. George Edward Street, R.A., at a cost of about £1,250,000. The estimated number of bricks, it is interesting to recall, which constitute this often criticised hybrid neo-Gothic structure, is, or rather was (for some have been dislodged in recent years) 35,000,000. To some it is a sad reflection that this complicated building should have resulted from the lengthy

controversies in the Victorian Press, which seems for the most part to have desired "a style neither grandiose nor mean; splendid nor sad, but a happy medium of decent plainness." It has however proved to have great strength, a virtue in these times, and normally the courts are cool in summer and warm in winter. The corridors could be better lit and barristers complain that there is no lift to the Bar Library. When one looks back, however, on the discomforts of Westminster Hall justice, modern discontents seem to be mere pinpricks.

Markings of Briefs

ACCORDING to the annual statement published by the General Council of the Bar, the professional conduct committee of the Council, as a result of a matter investigated by them, has informed The Law Society that it strongly disapproves of counsel going into court with unmarked briefs. While it cannot be denied that an experienced solicitor will as a rule know how to mark the brief of the counsel of his choice, it must be pointed out that there are occasions when he must leave the final decision on the matter to a hurried telephone conversation with counsel's clerk. It must be emphasised, however, that it is the solicitor's duty to see to the marking of the brief, and only in very exceptional circumstances can that duty be delegated by instructing a specific marking to be made. The Annual Statement for 1892–3, p. 2, states: "Mere delivery of a brief does not necessarily involve either acceptance of the brief or acquiescence in the fee marked thereon, for it is impossible to tell until the contents of the brief have been examined whether the fee is adequate or not. A full opportunity for examination should be afforded" (A.S., 1892–3, p. 2). The rule appears in the Annual Statement for 1912 (p. 15) as follows: "Except in a few well recognised and exceptional cases, such as appearing for a Public Department or for the police in criminal prosecutions, a barrister should not appear in court upon a brief which has no fee marked upon it." The impropriety of going into court with an unmarked brief is obvious for many reasons, and especially in civil actions, where costs follow the event, but also in some criminal proceedings where costs are awarded. A further reason why solicitors are always inclined to have the matter fixed in advance, even if it is not always possible to pay in advance in keeping with the old practice, is that "a solicitor is, as between the barrister and himself, in accordance with the etiquette of the profession, personally liable for payment of a barrister's professional fees, whether or not the solicitor has received from his client money to pay them" ("Conduct at the Bar," by J. E. Singleton, K.C., 1933, p. 11; and see the views of The Law Society as repeated in the Annual Statement of the Bar for 1931). Like all rules of etiquette, this rule is concerned with exceptional cases, for no one can say that counsel as a class have any real discontent with regard to solicitors' co-operation in this vital matter.

Eminent Counsel

IT is enlightening at times to discover from public statements by members of other professions what their feelings are towards the legal profession. At the annual representative meeting of the British Medical Association on 7th December, 1944, a motion was accepted that "eminent counsel" should be employed in connection with the negotiations with the Government for the medical profession, arising out of the recent White Paper on national health insurance. On the one hand it was argued that negotiations would be conducted by a Minister who was himself a lawyer and the Ministry would be assisted by legal experts. It was said that there was a strong case for having with the medical negotiators a counsel capable of talking with the opposite side on an equal footing. On the other hand, this was said to be "a mischievous proposal" as members of the council knew much more about this business from every point of view than eminent counsel could learn in any short time. A united medical profession behind its chosen leaders, it was stated, could not be improved in strength by any legal experts speaking as their mouthpiece. Most clients, it must be supposed, could adopt the attitude that they know more about their case than their advocates, but in fact, if they fail through carelessness or wilfulness to disclose all the relevant facts to their advocates, they court disaster. It stands to reason that a trained "mouthpiece" can do his own job better than persons trained in other directions, and it is satisfactory at least from the point of view of the British Medical Association that the motion was eventually adopted. The word "eminent" which occurred in the motion seems to be inseparable from its partner "counsel," especially when the client is a large organisation, but by way of contrast one may note that the British Medical Association itself recently pointed out to the Bar Council that counsel and solicitors sometimes refer to medical witnesses in exaggerated language such as "famous," "distinguished," etc., to the embarrassment of the medical witness and the medical profession. The Bar Council replied that they could confidently rely on the good sense of the Bar in the matter.

National Parks

SIR NORMAN BIRKETT has been chairman of the Standing Committee on National Parks for the last ten years, since its inception, and the admirable work that that committee has devoted to the problems before it has not received the public attention which it deserves. In the course of an article in the *Observer* of 31st December, 1944, Sir NORMAN made a powerful plea for the establishment of a National Parks Commission to be appointed by the Minister of Town and Country Planning. His definition of national parks is "the regions of our finest landscape brought into full public service, preserved in their natural beauty, continued in their farming use, and kept or made accessible (in so far as they are not cultivated) for open-air recreation and public enjoyment, and particularly for cross-country walking." The project of preserving national parks has received the blessing of the Addison and Scott Committees and of the White Paper on the Control of Land Use. What is now needed, Sir NORMAN said, is a Government declaration that a National Parks Commission will be set up and equipped with adequate powers and finance to deal with the problem now, and to maintain control in the future. Indispensable local government services, such as health and education, would remain under the existing authorities in national park areas, but, Sir NORMAN said, it was concerning the control of land use in its widest sense that the new powers would operate. Machinery would have to be set up for the hearing of appeals by persons aggrieved. "What is desired," wrote Sir NORMAN in an eloquent passage, "is to protect the integrity of national parks as a whole, the valleys, the villages, the moorlands, the stretches of wild scenery, the high and solitary places, the local traditions and ways of life and livelihood—all that makes the district an organic whole and a part of the English fabric." This is a noble ideal, not the dream of a visionary, but near enough to practical realisation. The Minister of Town and Country Planning has already surveyed half a dozen areas as possible future national parks. What Sir NORMAN justly demands is that, both financially and administratively, these problems should be made a national responsibility.

The Requisitioned Land and War Works Bill

THE text of the Requisitioned Land and War Works Bill was published on 6th January. It deals with future arrangements for the compulsory acquisition by the Crown or the sale of valuable buildings or extensive works built on requisitioned land. The normal tenant builds on land subject to the operation of the principle *cujus est solum ejus est usque ad coelum*. The object of the Bill is materially to alter the harsh operation of that rule in the case of requisitioned land, so that the Crown should be given power of compulsory acquisition of such land. These powers will apply (*a*) where the value or the use of the works, or the right to determine the use to which they shall be put ought to be secured to the Crown, or to some person having no or limited interest in the

land; (*b*) where the value of the land has been diminished by war use, whether there are buildings or not and the cost of restoring it is likely to exceed its value; or (*c*) where it is desirable in the public interest that the land should be dealt with in a particular manner. A person interested in the land may offer to pay for the works, at a price to be agreed or, in default of agreement, settled by arbitration. Powers are to be given to departments to continue temporarily in possession, or to remove works, or to restore land. The assessment of compensation will be based on the condition of the land before the work was done. Questions arising under the Bill are to be decided by a War Works Commission to be appointed by the Treasury. An adverse report by the Commission will be final where the grounds of a proposed purchase are purely financial. It will also be final where a dwelling-house or its amenities would be affected. In other cases the Minister concerned is to make the final decision, subject to his laying a report before Parliament. If, however, the Board of Trade certify that prompt arrangement is essential for acquiring or disposing of a factory or industrial premises no recourse to the Commission will be necessary. The Bill received its first reading on 20th December, 1944.

White Paper on Local Government

DIVERGENT views have already been expressed, some in approval of the Government's recent White Paper on local government in England and Wales during the period of reconstruction, and some to the contrary effect. The fact remains that it follows on lengthy discussions between the Ministry and the local authorities' associations; and it is further true that it only applies during the period of reconstruction. "What's to come is still unsure," so far as the more distant future is concerned. It proposes the establishment of a Local Government Boundary Commission to review the areas of local authorities in England and Wales, and make any necessary adjustments in status and boundaries. The Commission would normally hold a local inquiry before making its decision in each case. The more important of their decisions would be subject to Parliamentary review. Under the existing law, when the war-time suspension of adjustments comes to an end, the two procedures of county review and county borough extension would operate simultaneously and with little or no means of correlating decisions. The scheme put forward in the White Paper, for discussion in advance of legislation, aims at devising a procedure by which all proposals for adjustments will be examined by a single body. "The Government accept the general principle, embodied in the Act of 1929, that the normal interval between alterations of local government areas should be not less than ten years." It is proposed that the Commissioners should have no power to entertain applications for county borough status from authorities in the County of Middlesex, and that the special problem of local government in London should be outside the Commission's scope. The Government propose to take steps to appoint an authoritative body to inquire into and advise them on the local government problems within the county. The proposals in the White Paper "are not to be regarded as decisions, but they are made public in the hope that it will be possible, in the light of the discussion of them both in Parliament and elsewhere, to introduce early legislation which will be largely agreed."

Further Points from the White Paper

THE White Paper makes a number of important points on the general structure and finance of local authorities. It is stated definitely that "it is no part of the Government's policy in dealing with post-war reconstruction to perpetuate the system of Regional Commissioners." The Government favour the creation of joint authorities in connection with services where wider areas are required. The Government are not prepared to rule out altogether the possibility of transferring other functions from the local authorities to the State if on merits a good case can be shown for this course, "but they are opposed to any general policy of centralising services hitherto regarded as essentially local." It is stated with regard to finance that the present system of making grants to local authorities "provides a very flexible instrument, capable of adjustment to meet new conditions. This is especially true of the block grant." The Chancellor of the Exchequer has already announced that a general overhaul of the financial relations between the Exchequer and local authorities will be undertaken as soon as the necessary data are available, and that it will be carried out with a definite bias in favour of the poorer authorities. In this connection it is relevant to note that the Local Authorities Loans Bill, the text of which was issued on 21st December, 1944, proposes to regularise local authorities' borrowings by centralising them in the local loans fund and making it illegal, subject to prescribed exceptions, to borrow otherwise than from the Public Works Loan Commissioners. The rate of interest will be approximately that at which the Treasury pays off borrowings for the same period. At one extreme the White Paper is criticised as "a timid and wholly unsatisfactory document," doing little more than to vest for convenience in a single body the old powers of the Ministry of Health and county councils. At another extreme it is regarded as a "solid and promising advance." According to *The Times*, the centralising effects of appointing Commissioners will be "to promote the accumulation of an unrivalled fund of experience," and to provide "a quasi-permanent body, itinerant and executive, which will provide, especially in its annual reports, a regular and central focus for ideas on local government reform." The true view, as the White Paper seems to recognise, is that its proposals are by no means final, but that the basis of all sound reform is not to pull down a structure which is to accommodate urgent and extended public services at the earliest possible date, but to adapt it as soon as possible to the provision of those services.

A Lottery Case

THE case before the Poole magistrates on 3rd January, in which an ingenious scheme for awarding prizes to competitors who picked combinations of letters in newspaper headlines was held to be a lottery, by no means represents the peak to which originality in devising attractive competitions can soar. Some of those which have been held to be lotteries, like the prizes for purchasers of tea (*Howgate* v. *Ralph* (1929), 141 L.T. Rep. 512), or the "missing word" competition (*Barclay* v. *Pearson* [1893] 2 Ch. 154), or the free distribution of postal orders to members of a theatre audience (*Minty* v. *Sylvester* (1915), 25 Cox C.C. 247), were commonplace enough. More ingenious were the selling of green flame matches and the offer of a prize to every person who picked a match with a green flame (*Andren* v. *Stubbings*, *The Times*, 16th October, 1924), the selling of shilling bonds with the opportunity to purchasers of completing the sale of a series in consideration of a prize (*Barnes* v. *Struthers* (1929), Sc. L.T. 37), and the selling of newspapers with arrangements of spots, the purchaser to send back his newspaper and to receive a prize if he happened to have the newspaper with the arrangement of spots arbitrarily chosen by the newspaper proprietor (*Hall* v. *McWilliam*, 45 SOL. J. 579). These were held to be lotteries. The offence of which the defendant was found guilty in the case at Poole was that of printing lists of prize-winners in a lottery, contrary to s. 22 (1) (*c*) (ii) of the Betting and Lotteries Act, 1934. In his evidence the defendant, a commission agent, claimed that the scheme was merely one of credit betting. This has been held to be a good defence to a charge of keeping an office for the purpose of betting contrary to s. 1 of the Betting Act, 1853 (*Traynor* v. *Macpherson* [1911] S.C. (J.) 54), and credit betting on totalisators off the course is legal (*A.-G.* v. *Racecourse Betting Control Board* [1935] 1 Ch. and s. 18 (2) and (3) of the Betting and Lotteries Act, 1934), but the words of s. 22 do not indicate the possibility of such an exception to the criminal liability imposed by that section. Lotteries, subject to the exception of private lotteries in s. 24 of the 1934 Act, are *per se* illegal; betting is not.

1945-46 P.A.Y.E. AND EARLIER YEAR ADJUSTMENTS

THE Inland Revenue will be issuing during January and February notices to 11,000,000 P.A.Y.E. taxpayers regarding certain adjustments of their income tax liability for previous years. There is now further information available concerning the intentions of the Inland Revenue in this matter, and some notes on the subject may be useful to our readers.

These adjustments for earlier years fall into two main categories: firstly the cancellation of seven-twelfths or ten-twelfths tax for 1943–44 consequent on the switch-over to P.A.Y.E. as from 6th April, 1944, and, secondly, the collection of arrears which are still outstanding for 1942–43 and earlier years.

It may be wondered why it is necessary to send out 11,000,000 cancellation notices for 1943–44, because both the non-manual Sched. E taxpayers and the manual workers who were previously assessed half-yearly have paid an amount of tax for 1943–44 which should not be so very far out. The non-manual workers paid five months' tax for 1943–44 from November, 1943, to March, 1944, inclusive: the assessment will normally have been on the remuneration received in 1942–43. As regards the manual workers, they paid tax for the months of February and March, 1944, based on the amount of tax they paid for the second half-year 1942–43. For both categories the amount of tax paid for 1943–44 should be fairly well correct. The Chancellor decided, however, that it was necessary that the full liability for 1943–44 should be worked out and then the cancellation of seven-twelfths or ten-twelfths deducted. It would, of course, be quite contrary to the invariable policy of the Treasury to regard the tax for 1943–44 as finally settled by the purely provisional payments from November, 1943, to March, 1944, in the case of the non-manual Sched. E taxpayers and in February and March, 1944, in the case of the manual workers. Hence the statute requires that an exact computation must be made for 1943–44 and this is why the whole of the P.A.Y.E. taxpayers will shortly receive a cancellation notice. Fortunately in the majority of cases the under-deduction will not be substantial, and in a good many cases there will be an over-deduction revealed.

The method of working out the cancellation is laid down in the Income Tax (Employments) Act, 1943, and the Income Tax (Offices and Employments) Act, 1944. Schedule II to the 1943 Act provides that for the purposes of determining the cancellation the gross tax due in respect of the earned income shall be ascertained and that this gross tax shall be treated as reduced by (1) the amount of all the reliefs by way of deduction of tax to which the taxpayer would have been entitled if his earned income had been his only income; and (2) any amount of tax which is in respect of charges to the extent that the charges cannot be covered against unearned income.

One of the most complicated provisions in th cancellation process is that relating to the type of case where the taxpayer has one or more sources of income assessed under the P.A.Y.E. scheme and one or more sources of earned income assessed under other schedules, e.g., Sched. D. There is, for instance, the kind of case in which the husband is a trader assessed under Sched. D, while the wife is in employment. The Inland Revenue have designed a special form to deal with this type of case, which will inevitably cause a good deal of difficulty both to Revenue officials and taxpayers. The procedure is to ascertain the gross tax in respect of each part of the earned income and then to grant the allowances and reliefs in such a way that the taxpayer receives his maximum cancellation of seven-twelfths or ten-twelfths. Normally it is advantageous for the taxpayer to have his allowances and reliefs granted firstly against non-P.A.Y.E. items of earned income, as this will ensure the maximum cancellation. It does not follow, however, that this is how the allowances and reliefs were dealt with initially in assessing the taxpayer's liability for 1943–44, and the Inland Revenue now have the very complex task of re-allocating the allowances for the purposes of computing the cancellation.

In order to receive the 1943–44 remission the taxpayer must be in employment for the whole tax year 1944–45. There are provisions in the Act to deal with the type of case where a taxpayer is in receipt of emoluments for only a part of the year 1944–45. What will happen in these cases is that there will be an apportioned amount of the cancellation granted.

If this cancellation job represented the only adjustments for previous years that had to be taken into account in computing P.A.Y.E. liabilities for 1945–46, the position would be difficult enough. But there is in addition a task which in some respects is even more formidable than the 1943–44 cancellation. This is the collection of the large number of arrears for 1942–43 and earlier years. For 1944–45, the first year of P.A.Y.E., the Inland Revenue did not bother with the question of arrears, no doubt because in the initial year of P.A.Y.E. it was regarded as desirable to tackle the immense administrative switch-over without any complications. The result was, however, that a large number of tax arrears for 1942–43 and earlier were left over, and are now difficult to recover because most P.A.Y.E. taxpayers have probably assumed that these old debts have been waived. It is believed that altogether there are two or three million arrear cases. Hence, in many cases, the forms which the Inland Revenue will be issuing during the coming weeks will show not only the cancellation computation for 1943–44 but also arrears for earlier years.

It may be asked why there should be this vast number of arrear cases for 1942–43 and earlier. The clue to this situation is that under the old tax deduction scheme, which was in operation from November, 1940, to April, 1944, there was frequently a considerable time-lag in getting a taxpayer assessed, particularly in cases of change of employment, person becoming liable to tax for first time, married woman entering employment, etc. It will be recalled that under the old scheme the employer was not able to make any tax deductions until the Inland Revenue had raised an assessment and issued instructions to the employer; under the P.A.Y.E. scheme this time-lag difficulty has been solved.

The Inland Revenue are apparently not proposing to send a detailed explanation of how the arrears for 1942–43 and earlier years are computed. It seems probable that this will cause a flood of inquiries to tax offices. Because of the danger of wrecking the whole administrative machine for 1945–46 the Inland Revenue are proposing to collect the larger arrears in 1945–46 and to hold over the smaller cases until 1946–47. Where after working out the cancellation for 1943–44 and taking into account the arrears for earlier years the taxpayer's indebtedness exceeds £5, this will be collected in 1945–46. If, however, the debt is under £5 it will not be taken into account until fixing the coding for 1946–47.

One difficulty is that in some cases the arrears may be considerably greater than the taxpayer's ordinary liability for 1945–46. It is obvious that where the taxpayer's liability for 1945–46 is £40 and his arrears are £50, the Inland Revenue cannot hope to recover the whole £90 during 1945–46. If this were done, the burden of the taxpayer for next year might be intolerable. The Inland Revenue have to proceed with caution and discretion, because income tax has a considerable effect on civilian morale, and there might be trouble in industry if an attempt were made to pile on arrears too steeply. Presumably in these cases of exceptionally heavy arrears the Inland Revenue will aim at collecting only part of the arrears during 1945–46, leaving the balance to be raised during 1946–47 and, if necessary, 1947–48.

In cases where the cancellation adjustment shows repayment due to the taxpayer, and this is not offset by arrears for earlier years, the Inland Revenue will make repayment where the over-deduction exceeds £2, but where it is less than £2 it will be placed to the taxpayer's credit. Clearly, however, in those under £2 cases where the taxpayer wants the refund in cash, it will have to be repaid to him.

A CONVEYANCER'S DIARY

1944 CHANCERY—II

THERE are a few cases on the nature of charities in the Reports for 1944 apart from *Chichester Diocesan Fund* v. *Simpson* [1944] A.C. 341, which has already been fully discussed here. In *Re Osmund* [1944] Ch. 66 and 206, Bennett, J., and the Court of Appeal had to consider the effect of a gift of residue to the trustee of a will with an absolute discretion " to apply the same to the medical profession for the furtherance of psychological healing in accordance with the teaching of Jesus Christ." There was the evidence of a distinguished physician that " psychological healing was well known and recognised in the medical profession and was embraced in the practice of psycho-therapy." Bennett, J., held that the gift failed because it would, in his view, be possible for the trustee without committing a breach of trust to apply part of the fund for purposes that were not charitable within the well-known classes laid down by Lord Macnaghten in *Special Commissioners of Income Tax* v. *Pemsel* [1891] A.C. 532, 583. The learned judge was of opinion that part of the fund could, for instance, be applied to pay for a psychological cure for a wealthy man suffering from dyspepsia. The Court of Appeal declined to uphold this view. They said that the instance taken by the learned judge would be a breach of trust ; it would not be in " furtherance " of psyshological healing, but would be the provision of psychological treatment, which was something quite different. The true construction of the words of the will was that the fund must be applied " for the furtherance of the art of psychological healing," a branch of medical research which was clearly a good subject of charity. No very convincing explanation seems to have been advanced as to the meaning of the added words " in accordance with the teaching of Jesus Christ," though it was suggested that " Christ's instructions to his disciples to heal the sick would cover the psychological form of healing." But whatever the precise meaning and effect of those words, they could not affect the validity of the gift, since they were limiting words requiring that the psychological healing which was to be furthered must be confined to " healing of that character which is in conformity with the teaching of Jesus Christ." The words cut down the scope of a gift already charitable and added nothing to its scope. Thus, they did not import any non-charitable objects as with a gift for charitable or benevolent purposes, as distinct from one for charitable and benevolent purposes.

In *Re Gott* [1944] Ch. 193, a testatrix left a sum to the Council of the University of Leeds on trust to apply the income for the creation of a scholarship " constituted on such scheme or schemes as shall from time to time be formulated by the said Council " and to be " for the benefit of . . . male students of British and Christian parentage " who possessed certain sorts of degree. The University stated that they were glad to accept this gift provided they were not required to impose any religious tests on candidates, a procedure which would be contrary to their charter. The next of kin argued that the gift failed for uncertainty ; there was no general charitable intention and the test to be applied with reference to the particular charitable intention was a religious one and so void for uncertainty under *Clayton* v. *Ramsden* [1943] A.C. 320. Uthwatt, J., decided against the next of kin even accepting the submission that the class of objects was not exactly defined in the will. A charitable trust does not fail for uncertainty, however vaguely it is expressed, assuming that it is clear that the intention is charitable. The present trust was plainly one with the charitable purpose of advancing education, despite the unsatisfactory definition of the objects. There is no difference in this principle whether the charitable intention be general or particular. In any case, this trust was so framed as to enable the University to draw up rules confining the objects to persons undoubtedly qualified and excluding those whose qualifications were in doubt. In case of difficulty the Court's directions could always be obtained. While there can be no doubt that the gift was valid and charitable, I must confess that I find it difficult to see how the rules for the scholarship could be so framed as to ensure the Christian parentage of candidates without imposing religious tests. The report does not say what was eventually done, and the answer may be that the gift was valid so that a scheme for its administration could be drawn up by the court, but that the University could not be the trustee ; a charitable trust does not fail for want of a trustee.

In *Corporation of Foreign Bondholders* v. *Inland Revenue Commissioners* [1944] K.B. 63 and 403, Macnaghten, J., and the Court of Appeal were invited to hold that the corporation was entitled to exemption from income tax on its investment income as being a charity. The substantial ground of the appeal, which failed, seems to have been that " this body exists for the public purpose of protecting the foreign investments of this country and thereby doing a public good " (*per* Lord Greene, M.R., at p. 405). The suggestion was that the corporation's functions were therefore a charity within Lord Macnaghten's fourth class of " purposes beneficial to the community " (*Pemsel's* case, *supra*). But in fact " it exists to enable investors of a certain limited class to protect, so far as possible, their investment, and to get their money back, or as much of it as can be extracted, from a reluctant foreign government " (*per* Lord Greene, M.R., *ibid*). While it could not be disputed " that the country is benefited by the operations conducted by this corporation . . . it is quite untrue to say that a body which is established to protect private investors becomes a charity because one of the results of its operations is to do something which is beneficial to the State " (*ibid.*).

Re Compton [1944] Ch. 378 dealt with a most original sort of charity and one which could very well be imitated by other testators who have no persons with an obvious moral claim upon their more extensive bounty. A testatrix, who died in 1941 left a will, made in 1906, the material passage of which was as follows : " the money [describing it] is to be . . . invested under a trust for ever for the education of Compton and Powell and Montagu children but Compton and Powell children are to have the preference as scholarships for the time thought best by the trustees not over the age of twenty-six years. It is not to be used as a pension or income for anyone and is to be held as scholarships at the pleasure of the trustees. It is to be used to fit the children to be servants of God serving the nation not as students for research of any kind." " Compton children," " Powell children " and " Montagu children " were then defined as the " lawful descendants " of three named persons. This trust was held to be a valid charitable trust and the court directed a scheme. At the date of the summons there were twenty-six qualified persons under the age of twenty-six. We are not told how much the fund was, but even if it was quite small the testatrix did a substantial service to the families concerned ; not only did she put the income of the fund at their disposal in perpetuity as a means of financing their education, but she appears to have succeeded in making it available tax free. As income of a charitable trust this income would be free of income tax, and as scholarships it would presumably be free of tax in the hands of the beneficiaries, whose fathers, moreover, would not thereby be debarred from claiming allowance for dependent children against their own liability to tax. Such an achievement would have brought delight to a professional conveyancer if he had been able to think of the plan, and the testatrix deserves our unqualified admiration for bringing it about in a home-made will. (Incidentally, she let it stand unaltered for thirty-five years.) Practitioners who have occasion to draw up trusts of this kind in future must be extremely careful not to spoil the effect by too great an insistence on more artistic wording. Every phrase in the will contributed to the result. Cohen, J., confessed that " if the matter had been free from authority, I should have been inclined . . . to hold that in this trust there is a dominant

intention to promote, not education, but the education of members of a limited class " (at p. 382). The court will thus tend to approach similar cases with a certain lack of enthusiasm, so that caution in drafting will be imperative.

The crux of the matter was that for a very long time now trusts for the benefit of a person's poor relations have been held valid and charitable ; the trust for the relief of poverty does not cease to be charitable through being limited to a particular class. If a trust to relieve the poverty of one's relations is charitable, there is no reason to distinguish a trust to advance their education, the relief of poverty and the advancement of education being two of the four classes of charities laid down by Lord Macnaghten in *Pemsel's* case, *supra*. Indeed, such indirect authority as is available points to the absence of such a distinction. It is true that the court in Southern Ireland recently refused to recognise a trust very like the present as charitable, but Cohen, J., felt unable to follow that case, which was against the current of authority. He said : " That the intention was educational there is no doubt. It is to be inferred, not only from the direction that the income is not to be used as a pension or income for anyone . . . but also from the words ' it is to be used to fit the children to be servants of God serving the nation not as students for research of any kind.' " Importance also clearly attaches to the direction that the fund " is to be held as scholarships," and to the absence of any power to provide payments for maintenance ; unless such payments were confined to cases where they were in relief of poverty, they could scarcely be charitable, and the presence of a power to make them might very well invalidate the whole disposition. A fund for providing close scholarships for members of the family would be a benefit to almost every family, and, as I said above, the disposition discussed in *Re Compton* could with advantage be cautiously imitated.

LANDLORD AND TENANT NOTEBOOK

" LAWFULLY SUBLET "

A CORRESPONDENT has kindly drawn my attention to the fact that when writing about " Effect of Unauthorised Alienation " and about " Unauthorised Alienation by Protected Tenant " in our issues of 1st and 8th January, 1944 (88 SOL. J. 5 and 12, respectively), I made no reference to *Marwick's Trustees* v. *Harlick* [1937] S.L.T. (Sh. Ct.) 9, which has some bearing on the second mentioned subject. In the article concerned I suggested that the mystery surrounding the meaning of the words " lawfully sublet " in the Increase of Rent, etc., Restrictions Act, 1920, s. 15 (3) (" any sub-tenant to whom the premises or any part thereof have been lawfully sublet "), had not been completely dissipated by *Dick* v. *Jaques* (1920), 36 T.L.R. 773, and *Chapman* v. *Hughes* (192 3), 39 T.L.R. 260.

Admitting that the omission was due to ignorance and agreeing that Scots decisions, if not binding on English courts, have persuasive force, I find that the force in question (which, of course, depends on the exercise of reasoning powers) is absent in this case. For it appears to have been assumed without argument that " lawfully sublet " could not apply to a subletting in breach of a covenant of the head lease.

The facts were that one N C took a flat in Edinburgh in 1918 for a term of three months, subsequently holding over [I propose to use the English equivalents of Scots technical terms] till 1935, when he relinquished possession. The defendant and his family had come into the picture in 1920 ; they had, according to the finding of the Sheriff Substitute, " lived in the house along with N C " since then. Further findings were that the defendant paid half the rent and taxes, that he and his family had the exclusive occupation of one room and the use of the kitchen (where some of the family slept) and bathroom, and that he had his own furniture. He claimed protection as a sub-tenant under s. 15 (3).

A number of points were argued, one being whether the defendant had any tenancy at all under the above arrangement, another whether he had acquired one in view of the fact that the original contract of tenancy with N C had prohibited assigning and subletting, though it did not expressly mention subletting part.

On the first-mentioned point the Sheriff Substitute came to the conclusion that the defendant had held merely " during pleasure," and for this reason there could be no question of his being a protected tenant ; but went on to examine the question of the effect of the prohibition, and also decided this point in the plaintiffs' favour.

The learned Sheriff disagreed with the judgment on the first point. This question is not strictly relevant to the present discussion, but it is interesting to note that considerable importance was attached to the fact that the defendant had had his own furniture. The contest appears rather to have been fought on the basis that " tenant " and " lodger " constitute an exhaustive division ; this is not so, but we are dealing with a period when evacuation had not yielded such decisions as *Booker* v. *Palmer* (1942), 87 SOL. J. 30 (C.A.) (see 87 SOL. J. 63), and *Southgate Borough Council* v. *Watson* [1944] 1 K.B. 541 (C.A.) (see 88 SOL. J. 228).

But the appeal was dismissed on the other ground, in which the issue as fought was whether a prohibition of subletting *simpliciter* extended to a subletting of part, both Sheriff Substitute and Sheriff setting their faces against permitting English authorities to influence the position. From which it is to be inferred that Scotland has not known that conflict of views between those who consider that a landlord should continue to exercise some measure of control and those who look upon him as having effected a sale *pro tanto* and having consequently no right to interfere with the subject-matter. It was the victory of the latter school in *Church* v. *Brown* (1808), 15 Ves. 265 (see also, on this point, *Wilson* v. *Rosenthal* (1906), 22 T.L.R. 233), that led to the invariable " or any part thereof " in English covenants against subletting—and in s. 15 (3) of the Increase of Rent, etc., Restrictions Act, 1920.

The unfortunate omission, from the point of view of interpreting the subsection, was the failure of the appellant to suggest that if *Church* v. *Brown* was no part of the law of Scotland, the reasoning in *Parker* v. *Jones* [1910] 2 K.B. 34, and *Williams* v. *Earle* (1868), L.R. 3 Q.B. 739 (the effect of which were discussed in the " Notebook " of 1st January, 1944, above mentioned) applied. It may be that the result would have been the same, but an argument that the defendant was lawfully a sub-tenant despite the restriction imposed on his grantor, and entitled to utter whatever may be the colloquial Scots equivalent of the colloquial English expression " what of it " or ditto American " and so what," might have been productive of useful reasoning.

AN " ATTENDANCE " CASE

My attention has also been directed to the decision of the Lord Chief Justice in *Regent Estates, Ltd.* v. *Kerner*, reported in the *Estates Gazette* of 23rd December, 1944, which has some puzzling features.

In answer to a claim for possession of a flat, the defendant first set up that the notice to quit relied on by the plaintiffs was bad. The question was whether a yearly tenancy had been converted, by conduct, into a monthly one ; but I do not propose to discuss this issue at length because, frankly, the evidence as stated appears all to point to the opposite conclusion to that reached, which favoured the plaintiffs, and I think that the exigencies of paper restriction, which must be keenly felt by all reporters, may have something to do with this.

But the defendant also claimed the protection of the Increase of Rent, etc., Restrictions Acts, and the plaintiffs' answer to this was based on s. 3 (2) (*b*) of the Rent, etc., Restrictions

Act, 1939, excluding from such protection "any dwelling-house *bona fide* let at a rent which includes payments in respect of . . . attendance." This provision repeats, for 1939 control purposes, s. 12 (2), proviso (i), of the Increase of Rent, etc., Restrictions Act, 1920, and the tenant's answer was in turn based on the amendment effected by the Rent, etc., Restrictions Act, 1923, s. 10 (1): A dwelling-house shall not be deemed to be *bona fide* let at a rent which includes payments in respect of attendance . . . unless the amount of rent which is fairly attributable to the attendance . . . forms a substantial portion of the whole rent." It appears to have been assumed that the amendment governed "new control" cases; and, at all events, it can be argued that the 1923 provision merely approved *Wilkes* v. *Goodwin* [1923] 2 K.B. 580 (C.A.).

But what is difficult to understand is how the court, in coming to the conclusion that the cost of the attendance relied on represented a substantial portion of the whole rent, drew no distinction between services performed in and services performed outside the flat itself. Attendance in the buildings, working lifts, cleaning stairs, and turning out lights were taken into account as well as delivering coal from the tenant's cellar in the basement to his flat, which would appear to have been the only attendance that would satisfy the view expressed by Shearman, J., in *King* v. *Millen* [1922] 2 K.B. 56.

On the question of what is meant by "substantial" (conflicting views on which were discussed at 87 SOL. J. 54 and 98) the court followed or took the same view as that given by *Maclay* v. *Dixon* (1944), 1 All E.R. 22 (C.A.): a real part, not a mere trifle, but not necessarily a substantial proportion.

TO-DAY AND YESTERDAY

LEGAL CALENDAR

January 8.—In May, 1847, Mr. and Mrs. Wraith, of Mirfield, in Yorkshire, together with their servant, Caroline Ellis, were found dead in their house, horribly mangled. The information given by a hawker, named McCabe, led to the arrest of Patrick Reid, a tinker, who was tried at York on a charge of murdering Mr. Wraith. The evidence showed that he was near the house at the time of the murders, that some property stolen from it was traced to his possession, and that a soldering iron with which some of the injuries might have been inflicted was found, along with the key of the house, in the garden well. Suspicion of McCabe's evidence led to a disagreement of the jury and there was an acquittal, but at the next assizes both men were tried for the murder of the two women and convicted. The sentence on McCabe was subsequently commuted to transportation for life. Reid was hanged at York on the 8th January, 1848. On the scaffold he declared that he alone was guilty.

January 9.—Lord Harrington, in 1762, unknowingly employed as porter a man named John Wesket, who had previously been concerned in robbing the chambers of Mr. Henry Montague, a bencher of Lincoln's Inn, and also a house in Hatton Garden, working with John Bradley and James Cooper. Both were livery servants, but Cooper had since taken a chandler's shop and coal cellar in Little Turnstile in Holborn. One evening in December, 1763, while Lord and Lady Harrington were at the opera, Wesket let Bradley into the house in the Stable Yard, St. James's. They broke open a bureau taking banknotes, money and jewellery to the value of about £2,000, which Bradley carried to Cooper's. Though Wesket left a door and a window open and created other appearances of a robber having broken in, suspicion fell on him, and soon afterwards he was dismissed. As Lord Harrington was well known all over Europe it was unsafe to dispose of the notes abroad and Bradley took them to the Chester Fair to change them in purchasing Irish linen, but, by a chain of circumstances, he was traced and arrested at Wapping disguised as a seaman. He turned King's evidence, and Cooper was condemned to fourteen years' transportation for receiving the goods and Wesket to be hanged for the robbery. He was executed at Tyburn on the 9th January, 1765, "genteelly dressed in blue with a white cocade in his hat."

January 10.—On the 10th January, 1645, Archbishop Laud, condemned by Act of Attainder, without semblance of respect for law or justice, was beheaded on Tower Hill. A huge mob assembled, some pressing even beneath the scaffold. He asked that these might be removed lest innocent blood should fall on them. Around him, too, stood many people, and he said he thought there would have been "an empty scaffold where I might have had room to die," adding: "I beseech you, let me have an end of this misery, for I have endured it long." He spoke in a measured voice well heard, declaring: "I have been long in my race and how I have looked unto Jesus, the author and finisher of my faith, He alone knows." He spoke of death as a passage through the Red Sea and therefore, he trusted to a Promised Land, though he admitted: "I am not in love with this passage through the Red Sea, for I have the weakness of flesh and blood plenteously in me." He prayed a few moments, his head bowed on the block ready for the axe, and then gave the executioner the signal agreed, the words spoken loudly: "Lord, receive my soul."

January 11.—Alexander Hamilton was born on the island of Nevis in the West Indies on the 11th January, 1757, coming of good family on both sides. His father's bankruptcy and his mother's death limited his opportunities of regular schooling, but his genius manifested itself very early. His friends had just enabled him to enter King's College, New York City, when the American War of Independence interrupted his studies. He became secretary to Washington and a Lieutenant-Colonel, distinguishing himself both by his personal gallantry and by his handling of high affairs of state. After the war he went to the Bar and became one of the leaders of his profession in New York. At the same time he was still actively occupied in public affairs and his determined resistance to Aaron Burr, as truly the dangerous type of political adventurer as he was the model of the statesman, led to a fatal duel in which he was killed at the age of forty-seven.

January 12.—On the 12th January, 1827, Charles Pearce was found guilty at the Old Bailey of stealing a trunk, though the jury recommended him to mercy on account of his former good character. In great agitation he exclaimed: "Two months ago I was happy and comfortable but——" and then he turned round to leave the dock, but just as he reached the door he raised his right arm and stabbed himself with a knife concealed in his coat sleeve. He did not recover sufficiently to be brought up for sentence until April, when he was condemned to death.

January 13.—About Christmas time, 1803, Hammersmith was alarmed over a supposed ghost. Patrols watched lanes and footpaths, but it always seemed to appear elsewhere. In January, Francis Smith, an excise officer, met a white figure in Black Lion Lane, which was very dark between the hedges, and shot it. He found he had killed a bricklayer named Millwood, dressed in the usual white clothes of his calling. On the 13th January, 1804, he was tried at the Old Bailey for murder, and the jury reluctantly convicted him. The death sentence was, however, commuted to one of a year's imprisonment.

January 14.—In October, 1801, preliminaries for the Peace of Amiens with Napoleon commenced. Shortly afterwards the seamen of the "Temeraire," belonging to the Bantry Bay Squadron, taking it that the war was over, refused to sail for the West Indies, and mutinied. On the 14th January, 1802, the trial by court martial of six of the

men opened on board the "Gladiator" at Portsmouth. Five of the accused were sentenced to death and one to 200 lashes.

APSLEY HOUSE

The news that the Duke of Wellington has offered Apsley House, his residence in Piccadilly, to the nation recalls the fact that it was built for a Lord Chancellor. Henry Bathurst, the son of the first Earl Bathurst, received the Great Seal in 1771, and was himself raised to the peerage as Baron Apsley of Apsley in the County of Sussex. He succeeded to his father's earldom in 1775. He had been a judge of the Common Pleas for many years before being placed on the Woolsack, but he had no great reputation as a lawyer. He was one of the three commissioners to whom the Great Seal was entrusted on the sudden death of Charles Yorke and, as their joint labours in the Court of Chancery gave little satisfaction to the profession, there was some surprise that Bathurst, admittedly the least capable of the trio, was eventually chosen as Chancellor. Though he was ever strictly honourable and most amiable, he was constantly made the subject of absurd stories. In connection with Apsley House it was said that he designed it himself and forgot to put in a staircase. He also became involved in a dispute with a soldier's widow about a spot of ground at Hyde Park Corner. After she had filed a bill in Chancery he compounded the matter, and someone commented: "There is a suit by one old woman against another, and the Chancellor has been beaten in his own court." The site of Apsley House, granted to Bathurst by George III had previously been occupied by the Park Lodge.

COUNTY COURT LETTER

The Definition of a Non-occupying Tenant

IN *John Bryant & Sons, Ltd.* v. *Weaver*, at Bromsgrove County Court, the claim was for possession of No. 2, Woodbine Terrace, on the ground that the defendant had sub-let without the plaintiffs' consent and was not now in occupation herself. The plaintiffs required the house for an employee, who lived a long distance away. The tenant of No. 4, Woodbine Terrace gave evidence that the defendant had not lived at No. 2 since evacuees from Birmingham had moved in, viz., in 1940. A rent collector's evidence was that he had never received the rent from the defendant, and there were no arrears. An inquiry agent had ascertained from the present occupiers of No. 2 that the defendant had not lived there for eighteen months. The defendant's case was that she had lived continuously at No. 2 since 1931. In 1940 she took on a milk round as a war-time job. It was not always convenient for her to sleep at No. 2. The evacuee's evidence was that the defendant gave accommodation to himself and his family during the "blitz." The sub-tenant's evidence was that he persuaded the defendant to take in himself and his wife and the defendant often slept at No. 2. The defendant's father stated that she was only helping him temporarily in his milk round. It was pointed out for the defendant that the plaintiffs owned four other houses in Woodbine Terrace, none of which was occupied by an employee. The employee for whom the house was required had worked forty years with the plaintiffs without requiring a house near his work. The application was not reasonable. His Honour Judge Roope Reeve, K.C., was satisfied that the defendant had been a resident tenant throughout, and was not satisfied that there was suitable alternative accommodation. Judgment was given for the defendant, with costs. Compare *Skinner* v. *Geary* [1931] 2 K.B. 546, in which the absence of an intention to return was held to deprive the tenant of the protection of the Rent Acts.

The Definition of "Nuisance or Annoyance"

IN *Knapp* v. *Swanson*, at Bromsgrove County Court, the claim was for possession of two rooms in the plaintiff's house, under para. (*b*) of the First Schedule to the Rent, etc., Restrictions (Amendment) Act, 1933. The case for the plaintiff was that the defendant and his wife were already in occupation as sub-tenants when the plaintiff took the house. They paid £1 a week as rent, but their constant quarrelling made them a nuisance or annoyance. They had joint use of the kitchen, which they left in a filthy state. The plaintiff required the two rooms for evacuees from London. A submission was made for the defence that there was no case to answer—in the absence of evidence of nuisance or annoyance to "adjoining occupiers." Moreover, the allegations were denied. His Honour Roope Reeve, K.C., upheld the submission and gave judgment for the defendant, with costs.

Duration of Tenancy

IN *Currie* v. *Harris*, at Bromsgrove County Court, the claim was for possession of a house. The plaintiff's case was that the house was given to him in 1937 as a wedding present from his grandfather. As the locality did not suit his wife, the plaintiff moved elsewhere, and the house was let to the defendant—a friend. The defendant moved in on the 2nd February, 1939. He refused to sign an agreement providing for three months' notice to quit, saying he would prefer a monthly tenancy. A month's notice to quit had therefore been given. The defendant's case was that he had signed an agreement to pay £175 for the furniture and to take the house for twelve months and afterwards on a quarterly tenancy. Another agreement was tendered for his signature, but he was unwilling to pay the stamp duty of £1. He therefore refused to sign. His Honour Judge Roope Reeve, K.C., observed that the issue was: When did the parties come to an agreement? The case depended on the documents. The agreement signed by the defendant embodied the terms agreed. The tenancy was therefore quarterly, and three months' notice to quit was required. Judgment was given for the defendant, with costs.

Builder's Bankruptcy

IN a recent case, at Birmingham County Court, a builder applied for his discharge from bankruptcy. The adjudication was in 1935, with liabilities of £9,347. His Honour Judge Dale observed that the case was one of a type which was too familiar. Many builders made their building a pure speculation, i.e., by putting up houses which ought not to be put up, because they were "cut" everywhere in regard to price. Costing was also much too low. On obtaining their discharge, they recommenced in the same way and became bankrupt again. On one occasion His Honour had had to consider a case of a builder who had been bankrupt four times. He lived in satisfactory conditions, and the money had been supplied by unpaid creditors and the public. Such a case was nearly a fraud. The present applicant, however, had satisfied him that he had gained experience and would not resume in the same class of business. His intention was to start again in the building trade and work his way up as a master man. If the applicant were to engage again in speculative building, and became bankrupt again, he would have little hope of obtaining his discharge, in view of his record. His Honour had no desire, however, to exclude the applicant from the building trade after the war, if he felt he could do it honestly and straightforwardly. The application was accordingly granted, but, in view of the serious nature of the original bankruptcy and the heavy liabilities, the discharge was postponed for twelve months.

At the monthly meeting of the Directors of the Solicitors' Benevolent Association held on 3rd January, 1945, grants and annuities amounting to £4,810 were made to sixty-six beneficiaries.

Acting on medical advice, Sir Cecil Hurst has resigned his place as representative of the United Kingdom on the United Nations War Crimes Commission. Sir Cecil Hurst, who is seventy-five, was chairman of the commission which was set up on 20th October, 1943, by a meeting of Allied Government representatives at the Foreign Office. He is also vice-president of the Permanent Court of International Justice.

REVIEWS

Rent Restrictions Cases. By LIONEL A. BLUNDELL, LL.M., of Gray's Inn, Barrister-at-Law. 1944. pp. xxxii and 248. London: Sweet & Maxwell, Ltd. 17s. post free.

The expectation that the Inter-departmental Committee concerned will soon recommend changes in the law, and that some of those changes may subsequently be made, should not deter practitioners from acquiring this useful work; for threatened men live long, and amending statutes repeat as well as repeal. The author has summarised and annotated no fewer than 542 decisions, the annotations and cross-references being particularly valuable. The arrangement is alphabetical, but a table of statutes, an analytical table of subject-matter, and an ample index make consultation of the book (which, as the author observes, will nearly always be used in conjunction with some text-book) easy. There is perhaps one criticism to be made: both the machinery and the character of this legislation have from time to time provoked members of the judiciary into making forceful observations on both the draftsmanship and the justice of the Acts. But such observations do little to indicate the *ratio decidendi*, and it seems a pity to set out such a lengthy passage as that cited from the judgment of MacKinnon, L.J., in *Davies* v. *Warwick* (No. 114); especially as the strictures were partly based on a fallacy, the learned lord justice's attention not having been directed to a proviso to the paragraph against the injustice of which he was inveighing.

Legal Theory. By W. FRIEDMANN, LL.M., Dr. Jur., Quain Lecturer in Laws, University College, London. 1944. pp. xvi and (with Index) 448. London: Stevens and Sons, Ltd. 30s. net.

In English law, theory and practice have long been considered to be divorced, or at least to be living apart under a decree of judicial separation, the one in the serene atmosphere of the universities, the other in the turmoil of the courts. Of recent years, however, with the inordinate growth of that "wilderness of single instances," English case law, there has been a growing inclination among practical lawyers to revert to first principles. Those who are anxious to see the wood as well as the trees will find no better guide for their purpose than the work under review. It is the product of a mind that is at once encyclopædic and analytical, and it magnificently achieves the expressed objects of the author: "firstly to reduce every legal theory to its essential foundations; and these include the philosophical, political and economic background. Secondly, to demonstrate the vital significance of legal ideology for the actual working of the law. Thirdly, to help to dispel the myth—still lingering—that legal theory is the monopoly of metaphysical and mainly continental philosophers, useless to the pragmatic English or American lawyer." The author's analysis of the influence of modern political movements on legal development, both here and abroad, is masterly. English readers will most appreciate his chapters on the influence of English individualism and freedom of trade on the law of this country, exemplified at its illogical extremes in such cases as *Bradford Corporation* v. *Pickles* [1895] A.C. 587, and *Mogul Steamship Company* v. *McGregor* [1892] A.C. 25, respectively. They will find equally interesting the economic reasons expounded by the author as underlying the recent case of *Stevenson* v. *Donoghue* [1932] A.C. 1, on the liability for negligence of manufacturers to consumers, the social reasons underlying *Fender* v. *Mildmay* [1938] A.C. 1 (a spouse may make a valid proposal of marriage before decree absolute and after decree *nisi*), and the development of what used to be called paternal legislation and is now termed social security. Practical lawyers will, as the author rightly states, find the chapters on continental legal theory a little heavy going, but none the less worth studying, for they explain so much of what has been going on, to our dismay and disgust, in parts of Europe, during recent years. This is one of the great legal works of the present century, and every intelligent lawyer will want to read it.

BOOKS RECEIVED

Cases on the Law of Tort. By P. H. WINFIELD, K.C., F.B.A., LL.D. (Cantab.), Hon. LL.D., Harvard and Leeds, of the Inner Temple, Barrister-at-Law. Third Edition. 1945. pp. xi and 297. London: Sweet & Maxwell, Ltd. £1 net.

Principles of the Common Law. By A. M. WILSHERE, M.A., LL.B., of Gray's Inn, Barrister-at-Law. Fifth Edition. Vol. II. 1944. pp. xxii and (with Index) 352. London: Sweet & Maxwell, Ltd. £1 17s. 6d. net (the two volumes).

Supplement to Harrison's Death Duties. (To December, 1944). By DAVID HARRISON, LL.D., of the Estate Duty Office, London. pp. 10. London: Sweet & Maxwell, Ltd. 1s. net.

Burke's Loose-Leaf War Legislation. Edited by HAROLD PARRISH, Barrister-at-Law. 1943-44 Volume. Part 14. London: Hamish Hamilton (Law Books), Ltd.

An Aid to Apportionment. A Table for ascertaining the proportion of an annual sum for any lesser period. London: The Solicitors' Law Stationery Society, Ltd. 1s. net.

NEW YEAR LEGAL HONOURS

The following legal awards appeared in the second half of the New Year's Honours List. The legal awards in the first half appeared at p. 11 of last week's issue.

ORDER OF THE BRITISH EMPIRE

O.B.E.

Mr. E. BELLINGHAM, Town Clerk and District A.R.P. Controller, Stockton-on-Tees. Admitted 1928.

Wing-Cmdr. T. H. E. EDWARDS, R.A.F.V.R. Admitted 1926.

Lt.-Col. A. E. FURNISS, Notts and Derby Home Guard. Admitted 1921.

Mr. E. F. Q. HENRIQUES, Temporary Principal, Board of Trade. Admitted 1923.

Mr. H. A. HIELD, Town Clerk, Torquay, and A.R.P. Controller. Admitted 1908.

Lt.-Cmdr. Sir GEORGE LEWIS, Bt., R.N.V.R. Admitted 1932.

Mr. C. S. ROBINSON, Town Clerk, Blackburn. Admitted 1923.

Mr. P. SMALLMAN, Town Clerk and A.R.P. Controller, Weymouth. Admitted 1922.

Mr. A. M. SMITH, Town Clerk and A.R.P. Controller, Lewisham. Admitted 1930.

Mr. I. S. SPARROW, Chairman, Bilston and Willenhall Court of Referees and Military Service (Hardship) Committee. Called by Lincoln's Inn 1897.

Mr. C. E. STADDON, Town Clerk and A.R.P. Controller Beckenham. Admitted 1913.

Mr. R. WALSH Town Clerk and A.R.P. Controller, Sutton Coldfield. Admitted 1928.

OBITUARY

MR. H. N. BRIDGWATER

Mr. Harvard Noel Bridgwater, solicitor, of Messrs. Hansell Hales, Bridgwater & Preston, solicitors, of Norwich, died recently. He was admitted in 1903.

LT. CMDR. SIR GEORGE LEWIS, BT., R.N.V.R

Lt.-Cmdr. Sir George Lewis, Bt., R.N.V.R., solicitor, and senior partner in Messrs. Lewis & Lewis, solicitors, of Ely Place, E.C.1, was killed when he was piloting the plane in which Admiral Sir Bertram Ramsay lost his life. Sir George Lewis was thirty-four years of age, and was admitted in 1932. He was awarded the O.B.E. in the New Year's Honours list.

MR. F. W. MORGAN

Mr. Frederick Williams Morgan, solicitor, of Hastings, died on Tuesday, 2nd January, aged seventy-eight. He was admitted in 1887.

MR. W. J. ROWLEY

Mr. William James Rowley, solicitor, of Nantwich, Cheshire, died on Monday, 1st January, aged fifty-two. He was admitted in 1919, and was Managing Director of the Metallic Tile Co. (Rowley Bros.), Ltd.

MR. R. WATSON

Mr. Richard Watson, barrister-at-law, of Bradford, died on Sunday, 31st December, aged seventy-nine. He was called by Lincoln's Inn in 1887.

NOTES OF CASES

COURT OF APPEAL

Bowmakers, Ltd. *v.* **Barnet Industries, Ltd.**

Scott and du Parcq, L.JJ., and Uthwatt, J.
3rd November, 1944.

Tort—Conversion—Illegal dealings in goods—Defendants in possession owing to illegal dealings—Whether action lies—Applicability of maxim ex turpi causa non oritur actio.

Defendants' appeal against a judgment of Croom-Johnson, J., in an action for damages for conversion of certain machine tools. The machine tools in question were the subject of three hiring agreements, each containing an option to purchase, dated 18th March, 15th April and 16th June, 1941. These agreements were the result of an arrangement whereby the defendants, instead of buying them from S, the owner of the machine tools, hired them from the plaintiffs, who had bought them from S. The sales to the plaintiffs which resulted in the first two agreements infringed the Control of Machine Tools (No. 5) Order 1940 (S.R. & O., 1940, No. 1784). Neither the plaintiffs nor the defendants knew of the order. The plaintiffs had been guilty in respect of the third agreement of a breach of S.R. & O., 1940, No. 1374.

DU PARCQ, L.J., reading the judgment of the court, said that they would assume in favour of the defendants that the three hiring agreements were all affected by illegality. There was no doubt that the machines were the property of the plaintiffs at the date of the conversion, and there was support for this view in the dicta of Baron Parke in *Scarfe* v. *Morgan* (1838), 4 M. & W. 270, at p. 281. The defendants could not pretend to have had any legal right to possession of the goods at the date of the conversion. They had to rely, not on any right of theirs, but on the requirements of public policy (*Holman* v. *Johnson* (1775), 1 Cowp. 341, *per* Lord Mansfield at p. 343). *Prima facie*, a man was entitled to his own property, and it was not a general principle of our law that when one man's goods have got into another's possession in consequence of some unlawful dealings between them, the true owner could never be allowed to recover those goods by an action. It would indeed be astonishing if, for example, a person in the position of the defendant in *Pearce* v. *Brooks* (1866), L.R. 1 Ex. 213, supposing that she had converted the plaintiff's brougham to her own use, were to be permitted, in the supposed interests of public policy, to keep it or the proceeds of its sale for her own benefit. The principle which was in truth followed by the courts was that stated by Lord Mansfield, that no claim founded on an illegal contract would be enforced. More modern illustrations of the principle were *Scott* v. *Brown, Deering, McNab & Co.* [1892] 2 Q.B. 724, and *Alexander* v. *Rayson* [1936] 1 K.B. 169. A man's right to possess his own chattels would, as a general rule, be enforced against one who, without any general claim of right, was detaining them, or had converted them to his own use, even though it might appear, either from the pleadings or in the course of the trial, that the chattels in question came into the defendant's possession by reason of an illegal contract between himself and the plaintiff, provided that the plaintiff did not seek, and was not forced, either to found his claim on the illegal contract, or to plead its illegality in support of his claim. His lordship referred to *Taylor* v. *Chester* (1869), L.R. 4 Q.B., and said that the true meaning of the maxim "*in pari delicto potior est conditio possidentis*," cited in that case by Mellor, J., was not that where a transaction was vitiated by illegality the person left in possession of goods after its completion was always and of necessity entitled to keep them, but that where the circumstances were such that the court would refuse to assist either party, the consequences must follow that the party in possession would not be disturbed. It must not be supposed that the general rule stated by the court was not subject to exception. One obvious exception was that class of case in which the goods claimed were of such a kind that it was unlawful to deal in them at all, as, for example, obscene books. The appeal was dismissed with costs.

COUNSEL: *C. Gallop, R. T. Paget; B. B. Stenham.*

SOLICITORS: *L. A. Hart; Field, Roscoe & Co.*, for *W. Parkinson Curtis*, Bournemouth.

[Reported by MAURICE SHARE, Esq., Barrister-at-Law.]

CHANCERY DIVISION

In re **Jones; Public Trustee** *v.* **Jones**

Vaisey, J. 8th December, 1944.

Power of appointment—Power to appoint to any persons living at death of appointor—Nature of power—Validity.

Originating summons.

The testatrix, after appointing the Public Trustee to be her executor, gave to him a trust fund to be held upon protective trusts for the benefit of her son during his life and after his death she directed that the fund should be held in trust "for such person or persons living at the death of my said son . . . as my said son shall by will or codicil appoint." The son survived the testatrix and by his will he expressly purported to exercise the power and appointed the trust fund to his wife. The son died in 1941. This summons was taken out by the Public Trustee asking, *inter alia*, whether the power was a valid power.

VAISEY, J., said that it was clear that the power was not a general power, seeing that it was limited to the class of person living at the death of the son. On the other hand, it could hardly be described as a special power of the ordinary kind, seeing that the class in question extended to the whole human race living at a particular time. In "Jarman on Wills," 6th ed., vol. II. p. 763, the author pointed out that it was not altogether accurate to divide powers of appointment into two classes, general and special. Section 27 of the Wills Act, 1837, did not use the words "general powers," but the words "power to appoint in any manner the donee may think proper." So that, even if the donee could appoint to himself, yet if certain persons were excluded as objects of the power such a power was not the nature of a power referred to in s. 27. It seemed clear that this was a class of powers which were not special, in the sense that there was a distinct class of objects, and it was not general. To this intermediate class belonged powers where the donee could appoint to any person or persons other than himself, his executors or administrators, or other than certain classes of persons. In *In re Byron's Settlement* [1891] 3 Ch. 474 and *In re Park* [1932] 1 Ch. 580, the generality of the objects was limited by exclusion, as, from the totality of all possible objects, certain specified objects were taken out. In the present case the class was defined affirmatively as consisting of all individuals living at the death of the appointor. He construed these words as equivalent to a subtraction from the generality of objects of (1) all corporate bodies, charities and the like; (2) all individuals not actually in existence at the moment of the death of the appointor. Accordingly, although the power was neither a general power nor a special power on the two authorities, he was bound to hold that it was a power permissible to be created, and accordingly a valid power of appointment was created.

COUNSEL: *A. H. Droop; E. M. Winterbotham; Hector Hillaby; Wilfrid Hunt.*

SOLICITORS: *R. Raymond Pollard & Co.*, for *N. Ramsay Murray*, Chiswick; *Champion & Co.; Vizard, Oldham, Crowder & Cash*, for *Garrard & Anthony*, Worcester.

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

KING'S BENCH DIVISION

R. *v.* **Watson; *Ex parte* Bretherton**

Viscount Caldecote, L.C.J., and Humphreys and Birkett, JJ. 7th November, 1944.

Criminal law and procedure—Order of mandamus to magistrate to state a case on a point of law—When magistrate may refuse to state a case—Previous decision of final court of appeal on point of law—Where previous decision not binding—Summary Jurisdiction Act, 1879 (42 & 43 *Vict. c.* 49), *s.* 33 (1).

Motion for an order of *mandamus* to the chief magistrate at Bow Street Magistrates' Court, ordering him to state a case for the opinion of the court.

The motion was made on behalf of a clergyman who had laid an information against the United Kingdom Totalisator Co., Ltd., charging them, under s. 26 (1) of the Betting and Lotteries Act, 1934, in connection with an advertisement of a football pool in a newspaper. The learned magistrate dismissed the information and refused to state a case, holding himself bound by *Elderton* v. *United Kingdom Totalisator Company, Ltd.* [1935] Ch. 373, and *Reg.* v. *Shiel* (1900), 19 Cox C.C. 507.

VISCOUNT CALDECOTE, L.C.J., said that the headnote in *Reg.* v. *Shiel, supra*, read: "A magistrate ought not to be ordered to state a case upon the ground that his decision was erroneous in point of law, when he has decided in accordance with a previous decision of the Queen's Bench Division upon the same point from which there was no right of appeal." That headnote correctly reproduced the decision to be found in the judgment of

A. L. Smith, L.J., in that case. In that case the final court of appeal in a criminal cause or matter had decided on the particular facts of the case what the law was, but the present case was quite different. *Elderton's* case, *supra*, was a decision by Eve, J., a judge of great authority in the Chancery Division, in a case in which he was not the final court of appeal. On that ground the magistrate was wrong in holding that he was precluded by the decision in *Reg.* v. *Shiel, supra*, from stating a case on a point of law which was suggested by the party aggrieved.

HUMPHREYS and BIRKETT, JJ., agreed. Order was made accordingly.

COUNSEL: *Valentine Holmes; Beyfus*, K.C., and *R. E. Manningham-Buller*.

SOLICITORS: *Pritchard, Englefield & Co.*, for *March, Pearson and Green*, Manchester; *Ashby, Rogers & Fournier*.

[Reported by MAURICE SHARE, Esq., Barrister-at-Law.]

RULES AND ORDERS

S.R. & O. 1944, No. 1420/L.47

SUPREME COURT, ENGLAND

PROCEDURE:—MATRIMONIAL CAUSES

THE MATRIMONIAL CAUSES (AMENDMENT) RULES, 1944

DATED DECEMBER 19, 1944

I, John Viscount Simon, Lord High Chancellor of Great Britain, in exercise of the powers conferred on me by section 1 of the Administration of Justice (Emergency Provisions) Act, 1939,* and of all other powers enabling me in this behalf, and with the concurrence of two other Judges of the Supreme Court, do hereby make the following Rules under section 99 of the Supreme Court of Judicature (Consolidation) Act, 1925† :—

1. Rule 4 of the Matrimonial Causes Rules, 1944,‡ shall be amended by adding at the end of paragraph (1) thereof the following new sub-paragraph, namely :—

"(*j*) In the case of a petition for divorce or for nullity of marriage under section 1 of the Matrimonial Causes (War Marriages) Act, 1944,§ that the petition is presented under that Act and (in lieu of the statement as to domicile required by sub-paragraph (*d*) of this paragraph)—

(i) that the husband was at the date of the marriage domiciled outside the United Kingdom and has not since the marriage acquired a domicile within the United Kingdom;

(ii) that the wife was immediately before the marriage domiciled in England;

(iii) that the husband and wife have not at any time since the celebration of the marriage resided together in a country in which the husband was domiciled at the time of such residence."

2. Rule 6 of the said Rules shall be amended by adding to paragraph (2) thereof the following sub-paragraph, namely :—

"(*d*) In the case of petitions for divorce or for nullity of marriage under section 1 of the Matrimonial Causes (War Marriages) Act, 1944, whether to the knowledge of the petitioner, proceedings for dissolution or nullity of the marriage, for judicial separation, for restitution of conjugal rights or for other relief in respect of the marriage, are pending in any other court outside the United Kingdom, and, if so, the nature of those proceedings."

3. These Rules may be cited as the Matrimonial Causes (Amendment) Rules, 1944.

Dated the 19th day of December, 1944.

Simon, C.

We concur *Merriman*, P.
F. L. C. Hodson, J.

* 2 & 3 Geo. 6. c. 78.
‡ S.R. & O., 1944, No. 389.
† 15 & 16 Geo. 5. c. 49.
§ 7 & 8 Geo. 6. c. 43.

DRAFT AND PROVISIONAL RULES, 1945

COUNTY COURT, ENGLAND

FUNDS

THE COUNTY COURT FUNDS PROVISIONAL RULES, 1945

DATED JANUARY 1, 1945

I, John Viscount Simon, Lord High Chancellor of Great Britain, in exercise of the powers conferred on me by Section 158 of the County Courts Act, 1934,* and all other powers enabling me in this behalf, and with the concurrence of the Treasury, do hereby make the following Rules :—

* 24 & 25 Geo 5, c. 53.
† S.R & O., 1934 (No. 1315) I, p. 272

1. The County Court Funds Rules, 1934,† shall be amended as follows :—

(1) The following new Rule shall be inserted after Rule 11—

"*Payments into Court under the Liabilities (War-Time Adjustment) Acts*, 1941 *and* 1944.‡

11A. All money paid into Court under the Liabilities (War-Time Adjustment) Acts, 1941 and 1944, shall, until an Order of the Court is made directing the money to be invested, be treated as money not subject to investment by Order of the Court, and accordingly Rules 4 to 11 of these Rules shall apply pending the making of any such Order :

Provided that an Order for investment shall not be made as respects any sum less than £50, or as respects any sum which may reasonably be expected to be paid out during the next six months after the date of payment-in."

(2) In Rule 12, after the words " ordered by the Court to be invested " there shall be inserted the words " to money paid into Court under the Liabilities (War-Time Adjustment) Acts, 1941 and 1944, for the investment of which an Order has been made by the Court."

(3) The following paragraph shall be added to Rule 15—

" (3) When an Order has been made by the Court directing the investment of money paid into Court under the Liabilities (War-Time Adjustment) Acts, 1941 and 1944, the Registrar shall, on the same day as a deposit account is opened in respect of the Fund in accordance with Rule 16, transmit the amount of the Fund, after deducting any prescribed fee, by cheque to the Accountant-General together with a notice in Form 9 and a copy of the Order."

(4) The following Rule shall be substituted for Rule 19—

" 19. Subject to the provisions of paragraph (4) of this Rule :—

(1) No sum of less than £20 shall be transferred from the Deposit Account to the Investment Account.

(2) An Order may direct that a Fund of less than £20 shall accumulate Deposit interest and be invested when the capital sum together with the accumulated interest amounts to £20.

(3) Investment interest or dividends accumulated in a Deposit Account and not required for payments that may be reasonably expected to be made during the next six months may be invested when the amount thereof reaches £20.

(4) No sum shall be transferred from a Deposit Account to an Investment Account in any matter under the Liabilities (War-Time Adjustment) Acts, 1941 and 1944."

2. These Rules may be cited as the County Court Funds Provisional Rules, 1945.

And I, the said John Viscount Simon, Lord High Chancellor of Great Britain, with the same concurrence as aforesaid, hereby certify that on account of urgency these Rules should come into operation forthwith, and hereby make the said Rules to come into operation forthwith as Provisional Rules.

Dated the 1st day of January, 1945.

Simon, C.

L. R. Pym } Lords Commissioners of
William John } His Majesty's Treasury.

‡ 4 & 5 Geo. 6. c. 24 and 7 & 8 Geo. 6. c. 40.

WAR LEGISLATION

STATUTORY RULES AND ORDERS, 1944—1945

E.P. 1437. **Conditions of Employment and National Arbitration** (Amendment) Order, Dec. 5.

E.P. 1435. **Essential Work** (Building and Civil Engineering) Order, Dec. 19.

No. 1424. **Export of Goods** (Control) (No. 3) Order, Dec. 22.

No. 1462. **Factories.** Weekly hours of young persons under 16 in Factories (Printing and Book-binding) (Continuance) Regulations, Dec. 29.

No. 1461. Factories. Weekly hours of young persons under 16 in Factories (Various Textile and Allied Industries) (Continuance) Regulations, Dec. 29.

E.P. 1444. **Lighting** (Restrictions) (No. 5) Order, Dec. 22.

No. 1377. **Trading with the Enemy** (Specified Persons) (Amendment) (No. 15) Order, Dec. 20.

BOARD OF TRADE

Companies Act, 1929. Company Law Amendment Committee (Chairman: Cohen, J.). Minutes of Evidence, 26th Day, Nov. 24, 1944.

[Any of the above may be obtained from the Publishing Department, S.L.S.S., Ltd., 88/90, Chancery Lane, London, W.C.2.]

NOTES AND NEWS

Honours and Appointments

Mr. B. H. WADDY, barrister-at-law, has been appointed Recorder of Margate, in succession to Mr. R. A. Gordon, K.C., who has resigned. Mr. Waddy was called by the Inner Temple in 1920.

Mr. W. H. J. BROWNE, Solicitor to the Southport Corporation, has been appointed Assistant Solicitor of Plymouth. Mr. Browne was admitted in 1936.

Mr. J. P. DAVIES, an Assistant Solicitor to the Commissioners of Customs and Excise, has been appointed Solicitor to the Ministry of National Insurance.

Mr. ROWE HARDING has been appointed Deputy Chairman of the Court of Quarter Sessions of the Town and County of Haverfordwest. Mr. Harding was called by the Inner Temple in 1928.

Notes

During 1944 the Legal & General Assurance Society, Ltd., issued a total of 8,286 new policies for sums assured of £11,052,331. The corresponding total net figures for 1943 were 8,402 policies for sums assured of £10,081,715. These figures do not include any capitalisation for deferred annuities. With regard to immediate annuities there were 499 bonds for £619,984 consideration money. The corresponding figures for 1943 were 453 bonds for £507,890 consideration money.

The annual general meeting of the Bar will be held in the Old Hall, Lincoln's Inn, on Friday, the 19th January, 1945, at 3 o clock. The Attorney-General will preside. Any member of the Bar is at liberty to bring forward for discussion at the meeting any resolution, provided that notice thereof shall have been given in writing to the Secretary of the Council not later than Thursday 11th January, and that in the opinion of the Executive Committee of the Council such resolution is a matter of general interest to the Bar.

Solicitors for the Bethnal Green Borough Council have informed solicitors for the plaintiff in the recent action over the tube shelter disaster that the council does not propose to enter an appeal to the House of Lords. In these circumstances the plaintiff's solicitors state that all other claims will now be dealt with in regard to the assessment of damages. Steps will be taken to raise in the House of Commons the question of claims of servicemen which have been barred by the Public Authorities Protection Act, as amended by the Statute of Limitations.

The Middle East Supply Centre has announced that after consultation with supply and shipping authorities in London and Washington the British and American authorities in the M.E.S.C. have now communicated to the Governments of Middle Eastern countries important modifications in the present system of M.E.S.C. control. The most important feature of the changes which have been made is that over a wide range of items M.E.S.C. recommendations of territorial import licences will no longer be required. The import licensing regulations at present in force in all territories will however continue. A further and fuller announcement will be published in the Board of Trade Journal as soon as possible.

In a letter read at a recent meeting of Aldershot Town Council the Minister of Health stated that he had found no evidence of a ramp in the sale of houses. At an earlier meeting of the council it was alleged that at least three times the pre-war value was being asked and obtained for houses in Aldershot. The letter stated that, while it had not been found that, in general, houses were being sold at prices which might be regarded as unreasonable in existing conditions, or disproportionate to the increase in building costs and prices generally, the position was being closely watched and would, if necessary, be considered further when the report of the inter-departmental committee on rent control was available.

Wills and Bequests

Mr. John Bransbury, solicitor, of Dealtry Road, Putney, left £34,356, with net personalty £32,728.

Sir Arthur Fairfax Charles Coryndon Luxmoore, a Lord Justice of Appeal, of Ashford, Kent, intestate, left £27,784, with net personalty £11,452.

STOCK EXCHANGE PRICES OF CERTAIN TRUSTEE SECURITIES

Bank Rate (26th October, 1939) 2%

	Div. Months	Middle Price 8th Jan. 1945	Flat Interest Yield	‡ Approximate Yield with redemption
			£ s. d.	£ s. d.
English Government Securities.				
Consols 4% 1957 or after	FA	110½	3 12 7	2 19 6
Consols 2½%	JAJO	82¼	3 0 9	—
War Loan 3% 1955–59	AO	102¼	2 18 8	2 14 10
War Loan 3½% 1952 or after	JD	104½	3 7 0	2 16 5
Funding 4% Loan 1960–90	MN	113¾	3 10 4	2 17 2
Funding 3% Loan 1959–69	AO	100¾	2 19 6	2 18 7
Funding 2¾% Loan 1952–57	JD	101¼	2 14 3	2 11 1
Funding 2½% Loan 1956–61	AO	98	2 11 0	2 13 1
Victory 4% Loan Av. life 18 years	MS	114	3 10 2	2 19 7
Conversion 3½% Loan 1961 or after	AO	106½	3 5 9	2 19 7
Conversion 3% Loan 1948–53	MS	103½	2 18 0	1 14 5
National Defence Loan 3% 1954–58	JJ	101½	2 19 1	2 16 2
National War Bonds 2½% 1952–54	MS	100⅝	2 9 8	2 8 3
Savings Bonds 3% 1955–65	FA	101½	2 19 1	2 16 10
Savings Bonds 3% 1960–70	MS	100¾	2 19 6	2 18 10
Local Loans 3% Stock	JAJO	94¾	3 3 4	—
Bank Stock	AO	383½	3 2 6	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96	3 2 6	—
Guaranteed 2¾% Stock (Irish Land Act 1903)	JJ	92	2 19 9	—
Redemption 3% 1986–96	AO	99½	3 0 4	3 0 5
Sudan 4½% 1939–73 Av. life 16 years	FA	114	3 18 11	3 7 0
Sudan 4% 1974 Red. in part after 1950	MN	109	3 13 5	2 7 4
Tanganyika 4% Guaranteed 1951–71	FA	106	3 15 6	2 17 11
Lon. Elec. T.F. Corp. 2½% 1950–55	FA	98	2 11 0	2 14 4
Colonial Securities.				
*Australia (Commonw'h) 4% 1955–70	JJ	106	3 15 6	3 5 9
Australia (Commonw'h) 3½% 1964–74	JJ	100	3 5 0	3 5 0
*Australia (Commonw'h) 3%1 955–58	AO	100	3 0 0	3 0 0
†Nigeria 4% 1963	AO	114	3 10 2	3 0 6
*Queensland 3½% 1950–70	JJ	101	3 9 4	3 5 6
Southern Rhodesia 3½% 1961–66	JJ	104	3 7 4	3 3 10
Trinidad 3% 1965–70	AO	100	3 0 0	3 0 0
Corporation Stocks.				
*Birmingham 3% 1947 or after	JJ	94½	3 3 6	—
*Croydon 3% 1940-60	AO	101	2 19 5	—
*Leeds 3½% 1958–62	JJ	102	3 3 9	3 1 5
*Liverpool 3% 1954–64	MN	100	3 0 0	3 0 0
Liverpool 3½% Red'mable by agreement with holders or by purchase	JAJO	104	3 7 4	—
London County 3% Con. Stock after 1920 at option of Corporation	MSJD	94	3 3 10	—
*London County 3½% 1954–59	FA	104½	3 7 0	2 18 11
Manchester 3% 1941 or after	FA	94	3 3 10	—
*Manchester 3% 1958–63	AO	100½	2 19 8	2 19 0
Met. Water Board 3% "A" 1963–2003	AO	97	3 1 10	3 1 10
Do. do. 3% "B" 1934–2003	MS	98	3 1 3	3 1 5
Do. do. 3% "E" 1953–73	JJ	99	3 0 7	3 1 1
Middlesex C.C. 3% 1961–66	MS	101	2 19 5	2 18 5
*Newcastle 3% Consolidated 1957	MS	101	2 19 5	2 18 2
Nottingham 3% Irredeemable	MN	94	3 3 10	—
Sheffield Corporation 3½% 1968	JJ	105	3 6 8	3 3 10
English Railway Debenture and Preference Stocks.				
Gt. Western Rly. 4% Debenture	JJ	116	3 9 0	—
Gt. Western Rly. 4½% Debenture	JJ	122½	3 13 6	—
Gt. Western Rly. 5% Debenture	JJ	134½	3 14 4	—
Gt. Western Rly. 5% Rent Charge	FA	133½	3 14 11	—
Gt. Western Rly. 5% Cons. G'rteed.	MA	132½	3 15 6	—
Gt. Western Rly. 5% Preference	MA	120	4 3 4	—

* Not available to Trustees over par.
† Not available to Trustees over 115.
‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

"THE SOLICITORS' JOURNAL"

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